

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**Meeting Minutes - February 4, 2013**

**PRESENT:** Chair. P. Nilsson, M. Sharman, B. Weber, Gwen Cole, Kevin P. Masterson - Code Enforcement Officer, J. Campbell - Town Attorney & Tammie Schwerzler - Recording Secretary

**EXCUSED:** C. Rider

**OTHERS PRESENT:** Several residents

**AGENDA:** - Eric Kraft  
- 5714 McPherson's Point Road  
- Conditional Use Permit  
- Accessory dwelling unit

Chair. P. Nilsson opened the meeting at 7:03 p.m. and asked the board to review the January 21, 2013 meeting minutes before them.

M/2/C (B. Weber/M. Sharman) to accept the January 21, 2013 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried 4-0.

Recording Secretary read aloud the first Legal Notice:

RE: Application of **Eric Kraft** for a public hearing for a Conditional Use permit pursuant to Section 150-17B of the Zoning Ordinance of the Town of Livonia. The Conditional Use Permit is requested to allow an accessory dwelling unit, subject to the requirements of Article VII, Section 150-60, according to Section 150-31 D (1) of the Town of Livonia Zoning Code. The property in question is located at 5892 Big Tree Road, Livonia, New York and is zoned Neighborhood Residential Zoning District (NR).

Chair P. Nilsson polled the board members for site visit:

Chair. P. Nilsson	-	yes
M. Sharman	-	yes
B. Weber	-	yes
G. Cole	-	yes

Chair. P. Nilsson stated that he and the other board members have visited the site and reviewed the application and would now like Mr. Kraft to state his request for the record.

Eric stated that he and his wife share the house with his parents and have decided that a little separation would be nice for all of them. So the parents are going to stay in the house and Eric and his wife would like to live in the upper floor of the garage.

Kevin told the board that because this property is within 500' of the lake and East Lake Road, this application was sent to the Livingston County Planning Dept. for their review and comment. They recommended that approval or disapproval of this application is a matter of local option.

Eric explained that they went from having one available parking space to five when they built the garage. They can now park two cars in the garage and three in front of the garage. Although they do not own property across the street, their neighbor has graciously allowed them to park on property across the street for several years.

Kevin informed the board that he included meeting minutes of October 17, 2011 when Mr. Kraft came before this board for an area variance to allow the construction of a 28' x 28' attached accessory building in which they received approval for such due to the fact that relief is now less non-conforming than before.

The Krafts are not seeking relief for the 40% rule as the square footage of the second floor of the garage is well under 40% of the residence. The application is for a Conditional Use Permit only, not an area variance.

Chair. P. Nilsson opened the public hearing portion of the meeting to the gallery. He asked that if anyone wished to speak, they announce their name and address for the record.

Mrs. Conklin of 5706 McPherson's Point Road asked to speak. She has been contacted by several neighbors to speak on their behalf. When they were present for the October 17, 2011 it was stated by Mr. Kraft that the structure would be a garage with storage. They did not believe this and their belief was verified when at the completion of the structure, a kitchen and bathroom truck appeared for several weeks. She and the neighbors felt that Mr. Kraft was less than honest. Because of these circumstances they have concerns and have questions they would like clarified.

"The usage variance states it will be used for family use. However, the Krafts are only in residence six months. Will the property be rented for the other six months?"

"Mr. Kraft owns a business. Can we be assured that the garage will be used as a garage and only a garage?"

"We feel we were betrayed at the first meeting, we do not want to be betrayed again."

Mrs. Conklin also stated that when she built her porch several years ago she was told she could not enclose it and that if she did it would be torn down.

Donald Woodruff of 5722 McPherson's Point Road stated that he and his brother both live on McPherson's Point. He felt that allowing additional accessory dwelling units would open the door for additional vehicle traffic, foot traffic, lake traffic and will affect house values.

Chair. P. Nilsson asked the board if they had any questions or comments.

M. Sharman asked Mr. Kraft what business he has.

Mr. Kraft stated he does metal sculpting in Florida.

B. Weber asked if he has ever sold any from his property on McPhersons Point.

Kraft said, "No."

G. Cole asked if his parents are in the house now.

Kraft's answer was, "They are in the lake house from April to September", as he is too but they live in Florida most of the year.

Chair. P. Nilsson closed the public hearing portion of the meeting.

The Board discussed the legal criteria for a **Conditional Use Permit** Application:

(1) Will the establishment, maintenance or operation of the conditional use be detrimental to or endanger the public health, safety, comfort, morals or general welfare?

- no

(2) Will the conditional use be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the zoning district of concern? Will the conditional use diminish or impair property values in the immediate vicinity?

- no

(3) Will the establishment of the conditional use impede normal and orderly development and improvement of other property in the immediate vicinity for uses permitted by right in the district of concern?

- no

(4) Will adequate measures be taken to provide ingress and egress in manner which minimized pedestrian and vehicular traffic congestion in the public ways?

- no (it will be improved)

(5) Do adequate utilities, access roads, drainage and other facilities necessary to the operation of the conditional use exist, or are they to be provided?

-yes (they are in place)

(6) Does the conditional use permit in all other respects conform to the applicable regulations of this chapter and other town/village laws, ordinances and regulations.

- yes

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Chair. P. Nilsson asked for further questions of comments from the board. There were none.

M/2/C (B. Weber/G. Cole) to grant the Conditional Use Permit as submitted.  
Motion carried 4-0.

M/2/C (M. Sharman/P. Nilsson) to adjourn the meeting at 8:00 p.m.  
Motion carried 4-0.

Respectfully submitted,

Tammie Schwerzler  
Recording Secretary

/ts